



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

████████████████████
████████████████████
██████████ MI ██████████

Date Mailed: December 9, 2024
MOAHR Docket No.: 24-012319
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On ██████████, Petitioner ██████████ requested a hearing to dispute a Notice of Overissuance. As a result, a hearing was scheduled to be held on December 5, 2024. Public assistance hearings are held pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented herself. Respondent Michigan Department of Health and Human Services (Department) had Overpayment Establishment Analyst Mark Roberts appear as its representative. Neither party had any additional witnesses.

Sworn testimony was provided by both parties, and one exhibit was admitted into evidence. A 53-page packet of documents provided by the Department was admitted collectively as Exhibit A.

ISSUE

Did the Department properly determine that Petitioner owes the Department a debt of \$████████ for Food Assistance Program (FAP) benefits that were overpaid to her for the months of August 2022 through September 2022?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 4, 2022, the Department mailed a notice of case action to Petitioner to notify her that she was approved for FAP benefits. The Department approved Petitioner for a FAP benefit of \$████████ per month, effective May 3, 2022. The Department

determined Petitioner's FAP benefit amount based on the following information: group size of two, \$█████ per month in earned income, \$█████ per month in unearned income, \$█████ per month for a standard deduction, \$█████ per month for a housing cost, and \$█████ per month for a heat and utility standard. The notice of case action instructed Petitioner to notify the Department within 10 days of any change in circumstances that may affect her eligibility for public assistance.

2. On ██████████, Petitioner obtained employment at Bone Island Grill.
3. On ██████████, Petitioner received her first paycheck from her employment at Bone Island Grill.
4. On ██████████, Petitioner reported her employment at Bone Island Grill to the Department.
5. The Department did not process Petitioner's reported change in employment.
6. The Department continued to issue FAP benefits to Petitioner as if she had not had a change. The Department issued the following FAP benefits to Petitioner:
 - a. \$█████ for the month of August 2022 (plus an additional \$█████ supplement).
 - b. \$█████ for the month of September 2022.
7. Petitioner received the following gross income from her employment at Bone Island Grill:
 - a. \$█████ paid June 10, 2022.
 - b. \$█████ paid June 17, 2022.
 - c. \$█████ paid June 24, 2022.
 - d. \$█████ paid July 1, 2022.
 - e. \$█████ paid July 8, 2022.
 - f. \$█████ paid July 15, 2022.
 - g. \$█████ paid July 22, 2022.
 - h. \$█████ paid July 29, 2022.
 - i. \$█████ paid August 5, 2022.
 - j. \$█████ paid August 12, 2022.
 - k. \$█████ paid August 19, 2022.

- l. \$██████ paid August 26, 2022.
 - m. \$██████ paid September 2, 2022.
 - n. \$██████ paid September 9, 2022.
 - o. \$██████ paid September 16, 2022.
 - p. \$██████ paid September 23, 2022.
 - q. \$██████ paid September 30, 2022.
8. The Department investigated Petitioner's case and determined that it did not properly process Petitioner's reported change in employment.
 9. The Department redetermined the FAP benefits that Petitioner was eligible for by adding her gross income from her employment and recalculating Petitioner's FAP benefit amount for each month.
 10. The Department determined that Petitioner was not eligible for any FAP benefits for the months of August 2022 through September 2022 because Petitioner's gross income exceeded the limit to be eligible.
 11. The Department determined that it overpaid Petitioner \$██████ in FAP benefits for the months of August 2022 through September 2022.
 12. On October 23, 2024, the Department mailed a notice of overissuance to Petitioner to notify her that she was overpaid \$██████ in FAP benefits for the months of August 2022 through September 2022 due to an agency error.
 13. Petitioner requested a hearing to dispute the overpayment.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overpayment. BAM 700 (June 1, 2024), p. 1. The

overpayment amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at 2.

In this case, the Department overpaid FAP benefits to Petitioner for the months of August 2022 through September 2022 because the Department issued Petitioner more FAP benefits than she was entitled to receive. The Department issued Petitioner \$[REDACTED] per month for the months of August 2022 through September 2022. However, Petitioner was not entitled to any FAP benefits for the months of August 2022 through September 2022 because Petitioner's gross income exceeded the limit. Petitioner's gross income for the month of August 2022 was \$[REDACTED], and Petitioner's gross income for the month of September 2022 was \$[REDACTED]. The applicable gross income limit at the time was \$[REDACTED]. RFT 250 (October 1, 2021). Thus, Petitioner's gross income exceeded the limit for each month. Therefore, the Department overpaid Petitioner a total of \$[REDACTED] in FAP benefits for the months of August 2022 through September 2022.

Petitioner received this overpayment of FAP benefits due to the Department's error. Petitioner reported a change in employment to the Department, and the Department did not properly process it. This caused the Department to continue issuing FAP benefits to Petitioner when she was not entitled to receive them. Petitioner asserted that she should not be responsible for paying the overpayment because it was not her fault that she was overpaid FAP benefits. A FAP overpayment that results from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250.00. BAM 700 at 5 and BAM 705 (June 1, 2024), p. 1. The amount of the overpayment was \$[REDACTED]. Thus, although Petitioner received an overpayment due to the Department's error, the Department acted in accordance with its policies when it pursued the overpayment because the amount involved was greater than or equal to \$250.00.

Petitioner further asserted that she should not be responsible for paying the overpayment because the Department did not notify her of the overpayment in a timely manner. The Department was required to establish a claim for overpayment before the last day of the quarter following the quarter in which the overpayment was discovered. 7 CFR 273.18(d)(1). The Department may not have acted timely, but a claim that is not established timely is still a valid claim. 7 CFR 273.18(d)(3). Thus, even if the Department did not act in a timely manner, Petitioner is still responsible for paying the overpayment.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$[REDACTED] for FAP benefits that were overpaid to her for the months of August 2022 through September 2022.

IT IS ORDERED that the Department's decision is **AFFIRMED**.



JK/pe

Jeffrey Kemm

Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Electronic Mail:

Agency Representative

Kathleen Zewatsky
Overpayment Establishment Section (OES)
235 S. Grand Ave., Ste. 811
Lansing, MI 48933
MDHHS-Recoupment-Hearings@michigan.gov

DHHS

Heather Dennis
Jackson County DHHS
301 E. Louis Glick Hwy.
Jackson, MI 49201
MDHHS-Jackson-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw

Via First Class Mail:

Petitioner

████████████████████
████████████████████
██████████ MI ██████████